

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL NOTE

HB 2050 - SB 2253

March 8, 2014

SUMMARY OF BILL: Enhances indecent exposure to a Class A misdemeanor, unless it is a second or subsequent offense, is committed on school grounds and the victim is under the age of 13, or is committed by a person with two or more prior convictions for indecent exposure and the victim is under the age of 13, and then it is a Class E felony.

ESTIMATED FISCAL IMPACT:

Increase State Expenditures – \$570,900/Incarceration*

Other Fiscal Impact - Local governments will realize a reduction in incarceration costs as a result of the proposed legislation. However, there is insufficient data to estimate the decrease.

Assumptions:

- Under current law, a first offense indecent exposure is a Class B misdemeanor, unless the victim is under the age of 13, in which case it is a Class A misdemeanor. If the indecent exposure is committed on school grounds and the victim is under the age of 13 or by someone with two prior convictions for indecent exposure and the victim is under the age of 13, then it is a Class E felony.
- The proposed legislation enhances a first offense to a Class A misdemeanor and enhances a second or subsequent offense to a Class E felony.
- According to statistics from the Administrative Office of the Courts, there has been an average of 27.6 convictions per year for indecent exposure over the last five years. It is assumed that only 1 in 10 misdemeanor convictions are disposed of in circuit or criminal court. It is assumed that there are 276 convictions each year for indecent exposure.
- It is assumed that 10 percent (27.6) of these convictions are a second or subsequent offense.
- According to the Department of Correction (DOC), the average operating cost per offender per day for calendar year 2014 is \$66.29.
- According to the U.S. Census Bureau, population growth in Tennessee has been 1.12 percent per year for the past 10 years, yielding a projected compound population growth of 11.78 percent over the next 10 years. Population growth will account for 3 (27.6 x .1178) additional admissions for a total of 31 (28 + 3).
- The average time served for a Class E felony is 1.31 years.
- According to the DOC, 42.52 percent of offenders will re-offend within three years of

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their release. A recidivism discount of 42.52 percent has been applied to this estimate to account for the impact of offenders who would re-offend under current law within the additional time added by this bill. It is assumed that the re-offender would have committed the subsequent offense at the same felony level as under current law (31 offenders x .4252 = 13 offenders).

- The maximum cost in the tenth year, as required by Tenn. Code Ann. § 9-4-210, is based on 18 offenders [31 offenders – 13 (recidivism discount)] serving 1.31 years (478.48 days) for a total of \$31,718.44 (\$66.29 x 478.48 days). The cost for 18 offenders is \$570,931.92 (\$31,718.44 x 18).
- The proposed legislation will not likely increase the courts', district attorneys', or public defenders' caseloads, but rather enhances the classification of existing offenses. It is assumed that the courts, districts attorneys, and public defenders can accommodate any impact within existing resources.
- Local governments will realize a reduction in incarceration costs as a result of the proposed legislation. However, there is insufficient data to estimate the decrease.

**Tennessee Code Annotated § 9-4-210 requires an appropriation from recurring revenues for the estimated operation cost of any law enacted after July 1, 1986 that results in a net increase in periods of imprisonment in state facilities. The amount appropriated shall be based upon the highest cost of the next 10 years.*

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.



Lucian D. Geise, Executive Director

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